

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 03-0416P

Income Tax

For the Calendar Year 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the underpayment penalty for estimated tax.

II. **Tax Administration** – Interest

Authority: IC 6-8.1-10-1

The taxpayer protests the interest assessment.

STATEMENT OF FACTS

The underpayment penalty along with interest was assessed on the filing of the annual income tax return for the calendar year 2001.

The taxpayer is an individual residing in Indiana.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer requests the underpayment penalty be waived or reduced as the penalty is excessive in relation to what the taxpayer usually pays in taxes. The penalty is \$1,031.70 and the taxpayer has paid an average in taxes over the last several years of about \$1,000.

The Department points out the taxpayer underpaid the estimated taxes as a result of misreading the income tax instructions.

45 IAC 15-11-2(b) states, “Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive of tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

FINDING

The taxpayer's penalty protest is denied.

II. Tax Administration – Interest

Interest may not be waived according to IC 6-8.1-10-1.

FINDING

The taxpayer's protest is denied.